

ESTTA Tracking number: **ESTTA443159**

Filing date: **11/28/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91201995
Party	Plaintiff Mendias & Milton, LLC
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Submission	Motion for Default Judgment
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Date	11/28/2011
Attachments	(7) Plaintiff's Motion for Default Judgment.pdf (3 pages)(532681 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application of:	Fitfast, LLC
Serial No.:	85/017,519
Trademark:	FITFOOD
Int'l Class:	43
Filed:	April 19, 2010
Published:	September 13, 2011

Mendias & Milton, LLC,	§	
	§	
Opposer,	§	
	§	
v.	§	Opposition No. 91201995
	§	
Fitfast, LLC.,	§	
	§	
Applicant.	§	

MOTION FOR DEFAULT JUDGMENT

Pursuant to 37 C.F.R. § 2.106(a), Opposer files this Motion for Default Judgment in the above-captioned proceeding. In support of this Motion, Opposer sets forth the following facts and arguments:

1. Opposer filed its Notice of Opposition against U.S. Ser. No. 85/017,519 for the mark FITFOOD on October 11, 2011.
2. The Board issued a scheduling order on October 11, 2011, notifying Applicant that an answer was due in the above-captioned proceeding forty days after the mailing date thereof, which was November 20, 2011.
3. Applicant failed to file a timely answer for this proceeding by the November 20, 2011 deadline, filing a late answer on November 21, 2011.

4. Despite Applicant's enclosure of the Proof of Service with the late-filed answer, Opposer's counsel of record has not received service of the answer as of the date of this Motion.

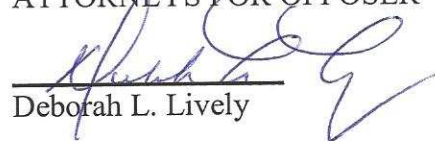
5. As of the date of this Motion, Applicant has not filed a motion asking that the late-filed answer be accepted.

6. Accordingly, Applicant is in default pursuant to 37 C.F.R. § 2.106. Judgment should, accordingly, be entered in favor of Opposer and the Opposition sustained.

Dated: November 28, 2011

Respectfully submitted,

THOMPSON & KNIGHT LLP
ATTORNEYS FOR OPPOSER


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Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion for Default Judgment is being served upon correspondent of record, Fitfast, LLC, by first class mail, postage prepaid, on November 28, 2011, in an envelope addressed to:

Fitfast LLC
402 Heywood Ave.
Orange, New Jersey 07050



Deborah L. Lively